

MEMO

To: Zoning Code Rewrite Task Force
From: Dana Burkhardt, Planning Consultant
Date: August 6, 2014
RE: Zoning Code Final Review Draft

SUMMARY:

At the July 28 Planning & Zoning Commission meeting, the Commission referred the Zoning Code draft back to the Task Force for review of staff's recommended amendments discussed herein, and to develop a single recommendation from the Task Force and staff.

Members of the Task Force expressed concerns regarding the city staff recommendations in addition to the recommendations of the Task Force. It has always been anticipated that the Task Force would function as an Advisory Committee, to advise the Planning Commission and City Council on provisions of the new Zoning Code. It was not anticipated that the Task Force would provide the only recommendation and preclude staff from providing recommendations to the Planning & Zoning Commission, beyond the Task Force recommendations. Upon further consideration, the Planning & Zoning Commission has requested a joint recommendation from staff and the Zoning Code Rewrite Task Force. The following discussion outlines staff's proposed amendments to the June 11 Task Force recommendation.

The Zoning Code Rewrite Task Force recommends the Planning & Zoning Commission and City Council adopt the draft Zoning Code with the following amendments:

- 1) Revise Article 302 to apply the TC Overlay to the first 150 feet of properties fronting John Wayne Parkway (SR 347), Smith Enke Road west of John Wayne Pkwy (SR 238), and Maricopa-Casa Grande Hwy unless requested by property owner to increase beyond 150 feet; and Amend Section 302.04.A "Prohibited Uses," by removing item 7, Off-Track Betting Establishments from the list of prohibited uses, and amend 302.04.A.2 - General Industrial Uses are permitted, however, only indoor business activities and uses, parking, landscaping, and other improvements and uses determined to meet the intent of this code by the Planning & Zoning Commission may occur within the Transportation Corridor Overlay.
- 2) Remove Article 301, Master Land Use Plan Required Overlay District, in its entirety, along with all references with in the Code.



- 3) Remove Article 402, Adequate Public Facilities, in its entirety, along with all references with in the Code.
- 4) Article 502.11 B. "Extensions," delete the word "approval" in first sentence, and modify Article 502.13 "Revocation of Permits and Approvals" opening paragraph by inserting before the last sentence, the following:

"Zoning revocation shall only be processed in the same manner prescribed by ARS 9-462.01E"
- 5) Amend Tables 501.11, 502.06 and 502.14 to consistently describe the criteria distinguishing a Major and Minor Development Review Permit by footnote within each respective table.
- 6) Article 511.03 B. "Zoning of Annexed Properties," delete and replace existing text with reference to ARS provision for zoning annexed land (ARS 9-471 (L) and 9-462.04 E.)

9-462.04 E. A municipality may enact an ordinance authorizing county zoning to continue in effect until municipal zoning is applied to land previously zoned by the county and annexed by the municipality, but in no event for longer than six months after the annexation.
- 7) Further exploration and clarification by staff of the Rules of Transitions for existing Preliminary Plats, Article 101.06 and provide recommendations to allow City Council to determine the time frames for extending existing approvals, as to not jeopardize an existing preliminary plat.
- 8) In addition to the review and further clarification of 101.06 Rules of Transitions for existing preliminary plats, provide further clarification and review to the language to grandfather existing Planned Area Development (PAD) Overlays.

On July 14, staff provided the following recommendations ([shown in tracked revisions](#) to the above listed Task Force amendments) to the Planning & Zoning Commission, which are the items sought for consensus in a joint Task Force/staff recommendation:

- 1) Revise Article 302 to apply the TC Overlay to the first 150 feet of properties fronting John Wayne Parkway (SR 347), Smith Enke Road west of John Wayne Pkwy (SR 238), and Maricopa-Casa Grande Hwy unless requested by property owner to increase beyond 150 feet.; and Amend Section 302.04.A "Prohibited Uses," by removing item 7, Off-Track Betting Establishments from the list of prohibited uses, and amend 302.04.A.2 - General Industrial Uses are permitted, however, only indoor business activities and uses, parking, landscaping, and other improvements and uses determined to meet the intent of this code by the Planning & Zoning Commission may occur within the Transportation Corridor Overlay.
- 2) ~~Remove~~ [Maintain](#) Article 301, Master Land Use Plan Required Overlay District, in its entirety, along with all references with in the Code [and revise District language by deleting Article 301.01 Specific Purposes items B & C, and add the following in place:](#)

["Ensure that existing and future City plans and policies are implemented through the orderly and comprehensive planning of tracts of land, and to discourage unplanned, piecemeal development, which may disregard the General Plan and city planning efforts for the area."](#)

- 3) ~~Remove~~ Maintain Article 402, Adequate Public Facilities, in its entirety, along with all references within the Code.
- 4) Article 502.11 B. "Extensions," delete the word "approval" in first sentence, and modify Article 502.13 "Revocation of Permits and Approvals" opening paragraph by inserting before the last sentence, the following:

"Zoning revocation shall only be processed in the same manner prescribed by ARS 9-462.01E"
- 5) Amend Tables 501.11, 502.06 and 502.14 to consistently describe the criteria distinguishing a Major and Minor Development Review Permit by footnote within each respective table.
- 6) Article 511.03 B. "Zoning of Annexed Properties," delete and replace existing text with reference to ARS provision for zoning annexed land (ARS 9-471 (L) and 9-462.04 E.)

9-462.04 E. A municipality may enact an ordinance authorizing county zoning to continue in effect until municipal zoning is applied to land previously zoned by the county and annexed by the municipality, but in no event for longer than six months after the annexation.
- 7) Further exploration and clarification by staff of the Rules of Transitions for existing Preliminary Plats, Article 101.06 and provide recommendations to allow City Council to determine the time frames for extending existing approvals, as to not jeopardize an existing preliminary plat.
- 8) In addition to the review and further clarification of 101.06 Rules of Transitions for existing preliminary plats, provide further clarification and review to the language to grandfather existing Planned Area Development (PAD) Overlays.
- 9) Per 7 & 8 above, revise Article 101.06 Rules of Transition; to include the language proposed in Attachment A, or direct staff to simplify the language to be more consistent with peer communities.
- 10) Modify Article 510 PAD Procedures language; refer to Attachment C for changes.
- 11) Accept revisions to the Single Family Residential Design Guidelines as proposed in Attachment D.

DISCUSSION

The Planning & Zoning Commission requests the Task Force further consider and provide direction on the four (4) outstanding policy items identified by staff with respect to the current Task Force recommendation. The topics requested for discussion and direction are listed in the above listed staff amendments, numbers two (2), three (3), nine (9), ten (10) and eleven (11). The ensuing staff analysis discusses the topics in consecutive order:

- Task Force Amendment to remove Article 301 Master Land Use Plan Required Overlay District
- Task Force amendment to remove Article 402 the Adequate Public Facilities
- Article 101.06, Rules of Transition: Effect of this Code on Approved Projects and Projects in Process, and; revisions to Article 510 PAD Procedures
- Revisions to the Single Family Residential Design Guidelines

The final discussion topic, “Single Family Design Guidelines,” has been further reviewed by staff and some minor restructuring and additional clarity is proposed. Refer to the discussion for further details.

ARTICLE 301 MASTER LAND USE PLAN REQUIRED OVERLAY DISCUSSION

The Zoning Code Rewrite Task Force recommends amendment number two (2): the deletion of Article 301 Master Land Use Plan Required Overlay from the draft Zoning Code. The primary reason for removal of this article is due to the fact that it does not accomplish its stated purpose. The code essentially requires preliminary conceptual planning for large areas of contiguously owned land for the purposes of avoiding piecemeal development and unplanned subdivisions of large vacant land holdings. With exceptions of the Heritage District, Seven Ranches, and Saddleback Ranch, the majority of land in Maricopa was consolidated by developers and master planned. The concern is that the few remaining large, undeveloped land holdings and future annexed areas may develop in a piecemeal fashion, without planned infrastructure, transportation networks or integrated land uses and open space.

The overlay would only be located over land owned or controlled by a single entity with a minimum of 320 contiguous acres. The intent is to encourage a comprehensive conceptual design responsive to surrounding development and in accordance with the General Plan. This includes connectivity to adjacent transportation networks, open spaces and other coordinated city planning efforts. This is a very basic mechanism for those property owners who do not wish to prepare a PAD land use plan, but ensures a coordinated land use design to avoid piecemeal and wildcat development scenarios.

Mayor Anderson, among others, requested this overlay be deleted and/or not mapped over their land holdings.

Article 301 Master Land Use Plan Required Overlay Recommendation:

Staff recommends the Task Force maintain the language proposed in the draft Zoning Code, with the following proposed change:

The draft Zoning Code language be revised to delete Article 301.01 Specific Purposes, items B & C, and add the following in place: “Ensure that existing and future City plans and policies are implemented through the orderly and comprehensive planning of large tracts of land, and to discourage unplanned, piecemeal development, which may disregard the General Plan and city planning efforts for the area”

ARTICLE 402, ADEQUATE PUBLIC FACILITIES DISCUSSION

On June 11, the Task Force specifically recommended Article 402- Adequate Public Facilities (APF) be removed from the Zoning Code Rewrite. Staff is submitting the following APF analysis based on the historical precedents Maricopa has traditionally enforced since incorporation, and as it relates to public health, safety and welfare. In addition, staff is including by reference the 2006 City of Maricopa’s voter-approved General Plan provisions that place importance on adequate public facilities. Also, the existing Zoning Code and Subdivision Ordinance regulations that require staff reviews for adequacy compliance of public facilities (fire, water, sewer, street, floodplain, drainage, school etc.).

The specific purpose of Article 402 is to ensure the timely provision of adequate infrastructure, and promote orderly and efficient development, consistent with the General Plan and the Arizona Revised Statutes. APF is intended to assure that proposed development will not adversely affect the public health, safety, and welfare. It also encourages new development to occur in areas of the City where public facilities are being provided and which are designated in the voter-approved *General Plan*. The adequate public facility requirements among others, may include, water, sewer, drainage, floodplain, street, school, fire, and public safety issues.

Since incorporation in 2003, the city had to rely on private utility providers for sewer, water, gas, the Maricopa Fire District and Pinal County Sheriff's Office for public safety. Also, the City relied heavily on Pinal County to oversee the drainage, flooding, hazard mitigation and air quality nonattainment issues. Furthermore, prior to the incorporation when the County was rezoning properties within the current city limits, the County, through zoning stipulations, enforced and made it mandatory for developers to comply with public facilities requirements, i.e., school, fire, street, water, sewer, drainage, flood, parks and trails.

Currently, the water and sewer services are provided by the private sector. However, the City coordinates routinely by holding monthly Technical Advisory Committee meetings (TAC) with the local utility providers to ensure the public facilities are keeping pace with growth and new developments. APF ordinances are timing devices that can be a useful tool for cities and towns, can help ensure that needed facilities and services are available for new development, and can signal to planners and elected officials what types of infrastructure, in which particular growth areas, are in need of additional capital improvement spending.

More importantly, from Maricopa's experience, the APF can serve as an important point of reference or checklist for staff and the Commission to verify that the proposed new developments/ infrastructures are in line and consistent with the Council-approved General Plan Goals and Objectives, as well as meeting other policies and requirements (zoning and subdivision ordinances). The City of Maricopa has its fair share of challenges regarding commitment, installation, and payment for the public facilities improvements. During the housing boom of the early and mid-2000's, several large scale master planned developments received zoning approvals. Many of these approvals inconstantly address and sometimes defer public facility improvement (bridges, roads, etc.) costs and responsibilities. The intention of the Adequate Public Facility ordinance is to consistently implement the City's existing and future policies for minimum levels of service. Article 402 also provides a level of certainty to the development community, utility providers, city staff and citizens that a minimum level of service is planned for and provided concurrent with development.

Staff has identified two other cities in Arizona that use APF regulations: the Town of Queen Creek and the City of Tempe. Queen Creek has stringent Level of Service requirements in their APF Code; City of Tempe is much less stringent than Queen Creek's adequate public facilities regulations and is the basis for the code proposed for the City of Maricopa.

The existing City policies related to adequate public facilities can be found in various City Council-approved Plans (see below), such as the current Zoning Code, Subdivision Ordinance, Regional Transportation Plan, the Parks, Trails and Open Space Master Plan, floodplain ordinance and the police, fire, emergency services, sewage, refuse disposal, drainage, local utilities, rights-of-way, easements and the required public facilities. These existing policies will enable Maricopa to meet its future population expectations and accelerate growth in desired areas of the community. Maricopa's existing public facility requirements are well defined, but adding it to the Zoning Code will provide opportunity to implement APF requirements within the framework of the overall development plan, and

directly or indirectly, these policies are a tool for the City Council, Planning and Zoning Commission, and staff for plan implementation and policy consistency.

- Arizona Revised Statutes – Article 9-462.01 A.7 requires Cities, at the time of rezoning, to condition approvals to meet adequate public facilities in the form of the dedication of public streets, alleys, public ways, drainage and public utilities. Article 9-463 establishes a Cities responsibility to require the dedication of parks, recreational facilities, school sites, fire stations, sewer, electric and water utilities, drainage, flood control, adequacy of water and improvements meeting minimum standards of design and construction. The City is required by state law to ensure all subdivisions/final plats comply with the department of transportation requirements for accessing state highways, county flood control standards, department of health requirements relating to domestic water supply and sanitary sewage disposal, and an assured water supply.
- City of Maricopa General Plan Section II. A: “Land Use Element” of the General Plan provides Land Use Recommendations; the first recommendation listed is to “Ensure land use planning and approvals go hand-in-hand with infrastructure planning, financing and construction.” APF Ordinance would assist in the implementation of this recommendation.
- City of Maricopa General Plan Section II. E: “Public Services and Facilities Element” of the General Plan provides guidance for the Planning Commission and the City Council, ensuring adequate public facilities and services demonstrate the City’s and the community’s commitment to orderly growth.
- City of Maricopa General Plan Section I. F: “Plan Administration” (1)(a) Major Amendment Infrastructure Criteria, this policy clearly outlines the impacts that land use changes, rezoning and amendments to the General Plan can have on public infrastructure, and would place significant cost burdens on regional, municipal or private utility systems. A major amendment is required when infrastructure (roads, bridges, overpasses and drainage) demands are not offset by private investment or extensions to public systems.
- City of Maricopa Zoning Code Article 33, Section 3304 c (6 & 7) - Timing of Development; Public Utilities and Services requirements.
- City of Maricopa Subdivision Ordinance, Section 14-1-3 Purpose and Intent (A) states... to ensure adequate vehicular and pedestrian traffic circulation through coordinated street systems with relation to major thoroughfares, adjoining subdivisions, and public facilities; to achieve individual property lots of reasonable utility and livability; to secure adequate provisions for water supply, drainage, flood protection, sanitary sewerage, and other health and safety requirements; to ensure consideration for adequate sites for schools, open space, recreation areas, and other public facilities; to help ensure that emergency services such as fire, ambulance and police services can be provided to all developed land.
- Forces the community to link its general plan land use with its capital improvement program, a principle of good planning that is often ignored.
- Can encourage contiguous or even infill development because of its proximity to existing urban infrastructure and services. To the extent that land in facility-provided

areas is limited, it will encourage developers to build at higher densities in the existing and future core areas of the community.

Article 402 Adequate Public Facilities Recommendation:

Staff recommends the Task Force maintain the language proposed in Article 402 of the draft Code.

ARTICLE 101.06, RULES OF TRANSITION DISCUSSION

Members of the development community have expressed concerns over how the provisions of the new code will be applied to existing zoned properties and preliminary plat approvals. Staff recognizes the City has 10 planned developments that were approved in the mid 2000's, accounting for approximately 8,626 acres of land which is equivalent to over 30,000 new homes. These previously approved projects are in various stages of tentative approval and have not received final plat, for various reasons. Article 101.06, Rules of Transition applies to these tentative development approvals, which are planned to double the cities current population, or accommodate an additional +60,000 people and supporting services.

In accordance with the Zoning Code Rewrite Task Force recommended amendments 7 & 8, staff has further evaluated the provisions for transitioning existing preliminary plats and PAD approvals. Staff's evaluation included a meeting with the stakeholders to further discuss their concerns, including a review of proposed language provided by the stakeholders. Much of the ideas and language provided by the stakeholders are incorporated in the attached draft (see Attachment A). However, portions of the language proposed by the development community stakeholders would restrict the current and future Planning & Zoning Commissions' and City Councils' ability to apply substantive provisions of the new Code on existing tentatively entitled land. The Commission and Council are the approval bodies for the vast majority of requests that are covered by the Rules of Transition provisions, and the stakeholder language would limit their ability to implement the city's future policies.

Pursuant to the current Task Force recommendation, further evaluation of the Rules of Transitions includes a peer review of 14 other zoning codes from communities within our market area and throughout Arizona. Staff found that the current language proposed for Rules of Transition is much more extensive than all other codes reviewed (refer to Rules of Transition Peer Review in Attachment B). The current language provides detailed application procedures, and narrowly defines the application of the new code provisions to existing zoning approvals. This in itself can lead to confusion to users of the code. The practice of peer communities of utilizing simple language gives much greater flexibility to staff, Planning & Zoning Commission and City Council to support the desires of the development community while implementing current and future city policy.

Applications to pursue development under prior approvals, such as plan approvals within existing PAD Overlays, extensions for existing preliminary plats, site plan approvals, and use permits are the authority of the Planning & Zoning Commission. Should an applicant disagree with an interpretation or the application of the provisions of the Code on pre-existing approvals, appeal procedures are in place and the final decision authority is held by the Planning & Zoning Commission and City Council.

Article 101.06 Rules of Transition Recommendation:

Staff recommends the Task Force include the language proposed in Attachment A and Attachment C, or direct staff to simplify the language to be more consistent with peer communities.

REVISIONS TO SINGLE FAMILY RESIDENTIAL DESIGN GUIDELINES DISCUSSION

The Residential Design Guidelines were removed from the Zoning Code upon recommendation of the Zoning Code Rewrite Task Force, and moved to a separate, standalone document. The draft Zoning Code defines the Single Family Residential Design Guidelines and references the document throughout the Code, similar to the existing Wireless Communication Facilities Design Guidelines and Heritage District Design Guidelines. The intent is to format all of these documents in a similar brand and appear as a cohesive library of City Design Guides. As the city grows, additional design guidelines may be added to address other types of land uses, such as multi-family, commercial, and special planning areas intended to project a unique and distinct character.

The Single Family Residential Design Guidelines were developed in collaboration with the Task Force members, homebuilding community stakeholders, and city staff. Extensive research and analysis was prepared and can be reviewed in the October 16, 2013 Zoning Code Rewrite Task Force meeting materials. Staff is recommending updates to the formatting of the Single Family Design Guidelines and a few substantive changes that are outside of the initial Task Force recommendation. The proposed updates are intended to only enhance, with minor modifications to the Task Force-recommended Single Family Design Guidelines (refer to Attachment D).

The proposed amendments are intended to organize the document into several sections as it relates to architectural design. Additional language is proposed to further emphasize the need of diverse architecture and discourage certain elements that create garage dominant neighborhoods. The following discussion is a narrative of the proposed changes to the Task Force recommended guidelines. Refer to Attachment D for the actual Single Family Residential Design Guidelines Analysis; tracked changes are included with additions in red text, notations are included for reference and deleted or moved items are shown with a strike through.

Substantive modifications to the Residential Design Guidelines (Attachment D) include the following:

1. Section C, Subsection 1h (pg. 5), reduced street side setback is recommended to be removed from the guidelines and added to Zoning Code Section 202.03.
2. Section C, Subsection 2f (pg. 6), minimum distance between garage door and sidewalk is recommended to be removed from the guidelines and added to Zoning Code Section 202.03
3. Section C, Subsection 2j (pg. 6) garage doors maximum size, staff recommends a restricting a maximum width for garages in relation to the overall width of the front elevation to reduce garage dominance architecture. Additional language proposed to allow for flexibility.
4. Section C, Subsection 2k (pg. 7) detached garages, staff recommends the section to be removed from the guidelines and added to Zoning Code Section 202.03
5. Section C, Subsection 3b (pg. 8) front porch requirements, staff recommends requiring front porches with minimum size requirements. Additional language proposed to allow for flexibility.

6. Section C, Subsection 3f (pg. 9) rear covered patio, staff recommends requiring with minimum size requirements. Additional language proposed to allow for flexibility.

RECOMMENDATION:

Staff recommends the Task Force amend their June 11, 2014 recommendation to the Planning & Zoning Commission and City Council to include the amendments listed in this staff report.

Attachments: A – Article 101.06 Rules of Transition revised language
 B – Article 101.06 Rules of Transition Peer Review
 C – Article 510 PAD Procedures, revised
 D – Residential Design Guidelines
 E – Letters of Concern dated July 14, 2014